

REMARKS

This Amendment After Final is responsive to the Office Action dated November 3, 2003. Claims 1-9 and 13-22 are pending in this application. Claims 10-12 were previously withdrawn in view of a restriction requirement. Claim 21 is currently amended to address the 35 U.S.C. § 112, first paragraph rejection raised by the Examiner.

Claim 21 was rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. Applicant has amended claim 21 to clarify that the directional member takes on a truncated conical shape when placed in an expanded position. The Examiner has indicated that it is not clear how the distal tip of a wire can be conical. However, the embodiment of the directional member 42 disclosed in FIGS. 1-4 is not a wire, but rather, a sheet like member made from a highly pliable material which, in the particular embodiment shown in FIGS. 1-4, forms a truncated conical shape when fully expanded. Applicant has reviewed the formal drawings of record and realizes that the Examiner may have been confused as to the particular structure of the directional member since FIGS. 2 and 3 lack lines which would clearly depict the shape and positioning of the directional member 42. Accordingly, Applicant respectfully presents new drawings which correctly depict the directional member 42 and the filtering member 36 in FIGS. 2 and 3. It is believed that no new matter has been added in these drawings as FIG. 4 clearly shows directional member 42 in its collapsed position after emboli has been captured in the filtering member 36. As is clearly shown

in FIG. 4, the directional member 42 is not a wire, as suspected by the Examiner but, rather, can be formed as a sheet-like member.

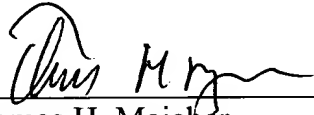
Claims 1-9 and 13-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,391,044 to Yadov et al. (the "Yadov patent"). In the Office Action, the Examiner has indicated that the Yadov patent discloses the use of a directional member 50, shown in FIG. 3. Applicant has carefully reviewed the Yadov patent and notes that the element designated by the numeral 50 is directed to a wire which is used to provide additional structural integrity and rigidity to the filter membrane 20. These wires 50, are merely support structures attached to the filter and in no way function as a directional member in accordance with the present invention. First, the wires 50 disclosed in the Yadov patent do not block the passage of fluid and emboli or are expandable by the fluid flow in the vessel. Rather, fluid (blood) would flow around these wires 50 and be filtered through the filter membrane 20 to which these wires are attached. These wires 50 play no part in expanding the filter membrane 20 within the blood vessel. Rather, the Yadov patent specifically states that the filter membrane 20 is deployed when the operator pulls a moveable core proximally through the interior of the guide wire 10 (see column 5, lines 8-10). Therefore, these wires 50 do not constitute a directional member in accordance with the present invention. Accordingly, Applicant believes that the §102(e) rejection based on the Yadov reference with respect to all of the pending claims should be withdrawn.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at 310 824 5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
Thomas H. Majcher
Registration No. 31,119

THM:mjm
Enclosures:
Return Postcard

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
35879.1